

Section I INTRODUCTION

A. SOLID WASTE MANAGEMENT FACILITY PERMIT PROGRAM.

The Virginia Waste Management Act requires all solid waste management facilities (SWMFs) to obtain a permit from the Department. This permit manual describes the procedures for processing solid waste management facility permits to ensure the requirements of the Virginia Waste Management Act and of the Virginia Solid Waste Management Regulations are being met. It presents the administrative procedures for obtaining a complete application, preparing a draft permit, subjecting the draft permit to the public participation process, and issuing, amending, revoking, terminating, or denying permits.

B. PURPOSE OF THE PERMIT MANUAL

The permit manual is designed to reflect existing DEQ policy and regulations, but is not a regulatory document. The purposes of this Permit Manual are to:

1. Provide permit writers, reviewers and managers the procedures that shall be followed to ensure that the SWMF permits are issued, amended, denied, terminated, or revoked and reissued according to state laws and regulations.
2. Establish procedures that ensure consistency when processing SWMF permits.
3. Provide a document that is a training tool for new staff, which describes the correct procedures for administering the permit program.

C. CONTENTS OF THE PERMIT MANUAL

The permit manual consists of two parts, the narrative portion and the appendices. The Narrative establishes administrative procedures for permit issuance, denial, amendment, revocation and re-issuance, and termination. In some cases, modifications to these procedures may be necessary. However, before initiating any procedure different from those included in the Narrative, the permit writer shall obtain approval from their supervisor. The Appendices contain definitions of terms, submission instructions for solid waste permit applications, completeness checklists, the general texts of permit modules, example letters and memorandums.

D. BASIS OF THE PERMIT MANUAL

The following documents provide the basis for this manual:

1. Virginia Waste Management Act (WMA), Title 10.1 Chapter 14, Code of Virginia 1950 as Amended
2. Virginia Solid Waste Management Regulations (VSWMR), 9 VAC 20-80
3. Regulated Medical Waste Management Regulations (RMWMR), 9 VAC 20-120
4. Financial Assurance Regulations for Solid Waste Facilities (FAR), 9 VAC 20-70
5. Solid Waste Management Facility Permit Application Fees, 9 VAC 20-90
6. Subtitle D, Resource Conservation and Recovery Act (RCRA)
7. Part 257, Title 40, Code of Federal Regulations (40 **CFR** 257)
8. Part 258, Title 40, Code of Federal Regulations (40 **CFR** 258)
9. Board-approved policies and procedures

Section II PERMIT REVIEW AND ISSUANCE

A. NOTICE OF INTENT (NOI) [9 VAC 20-80-500 B]

To apply for a new solid waste management facility permit or amend an existing permit, the owner or operator must file a notice of intent with the Department. The notice may be submitted by itself or may accompany the Part A permit application described in 9 VAC 20-80-510. Permit writers will review the notice of intent using the procedures in this section.

1. Contents of NOI. The NOI consists of the cover letter and the documents required by the Virginia Waste Management Act and the regulations.

- a. *Cover Letter* [9 VAC 20-80-500 B 1]. The owner or operator shall submit a letter to the Regional Waste Compliance Manager describing the type of the desired permit or permit amendment, the precise location of the proposed facility, and the intended use of the facility. Area and site location maps shall be attached to the letter.

b. *Disclosure Statement* [9 VAC 20-80-500 B 2 and Appendix 7.1]. Signed and notarized copies of disclosure statements required by the Virginia Waste Management Act (*see* definition of disclosure statement in §10.1-1400) for each of the key personnel shall accompany the cover letter. Forms shown in Appendix 7.1 (forms DISC-01 and DISC-02) of the VSWMR may be used to fulfill this requirement.

c. *Certification by the Local Governing Body* [9 VAC 20-80-500 B 3 and 500 B 4., and Appendix 7.2]. Applications for new permits, as defined in 9 VAC 20-80-480 C, shall contain a signed original of the certification from the local governing body where the facility will be located stating that the location and the operation of the proposed facility is consistent with all applicable ordinances. The certification can be signed by a county official with the authority to do so. The certification is usually provided by the zoning administrator or the county, city, or town administrator or manager. To be acceptable, the certification shall not contain any qualifications, conditions or reservations. A copy of an acceptable certification is shown in Appendix 7.2. (form SW11-1) of the VSWMR.

d. *Public Comment for New Sanitary Landfills and Transfer Stations* [9 VAC 20-80-500 B 5, and *see* definition of "New Solid Waste Management Facility" in 9 VAC 20-80-10]. Applications for permits for new sanitary landfills and transfer stations require the NOI to include a statement from the applicant indicating the steps taken to seek comment from residents of the area.

e. *Permit Application Fee* [9 VAC 20-90-10 et seq.]. All applicants for solid waste management facility permits are required to pay a fee as required in 9 VAC 20-90. The fee is due with the notice of intent as stated in 9 VAC 20-90-60 A 2.

Note: On the effective date of Amendment 3 of the Virginia Solid Waste Management Regulations the provisions below will be replaced with the provisions in the next section of this document.

f. *Other Requirements*. In addition to the requirements of the regulations, the Code of Virginia requires the submission of information to address a disposal capacity guarantee in §10.1-1408.1 B 6, and a host community agreement or information in accordance with §10.1-1408.1 B 7 and 8. In addition, the applicant must indicate how public comment was considered from the host local government, other local governments and interested persons in accordance with the requirements of §10.1-1408.1.D 1. Any information regarding the disposal capacity guarantee, the host community agreement or public comment that has not been submitted with the initial NOI shall be noted in the first correspondence to the applicant. In addition, the permit writer should note that sufficient information is required for the director to make the determination required in 10.1-

1408.1.D.1 of the code of Virginia. Guidance is available for the submission of the required information to meet the statutory provisions. When the permit writer requests information required by statute, the correspondence should reference the appropriate statute. Additional requests for the submission of information required by statute are addressed in [II B.1.i.](#)

Note: The following provisions should be evaluated following the effective date of Amendment 3 of the Virginia Solid Waste Management Regulations.

f. *Disposal Capacity Guarantee* [9 VAC 20-80-500 B 6] For applicants proposing to construct a new sanitary landfill or expand an existing sanitary landfill, a signed statement is required guaranteeing that sufficient disposal capacity will be available for localities within the Commonwealth to comply with their waste management plans and certifying that those localities will be allowed to contract for and reserve disposal capacity in the facility. This requirement is taken from §10.1-1408.1 B 6 of the Code of Virginia and does not apply to those facilities in jurisdictions that only accept waste from within the jurisdiction (cities, counties, towns, and solid waste planning regions).

g. *Host Community Agreement* [9 VAC 20-80-500 B 7] For applicants proposing to construct a new sanitary landfill or expand an existing sanitary landfill, a certification is required from the local governing body indicating that a host community agreement has been reached between the host jurisdiction and the applicant. The requirement for a host community agreement is taken from §10.1-1408.1 B 7 and 8 of the Code of Virginia. The agreement is required to address the following elements:

- The financial compensation that the applicant will provide the host locality;
- The daily travel routes and traffic volumes;
- The daily disposal limit; and
- The anticipated service area of the facility.
- Provisions for the applicant to pay the cost of one employee for the host locality whose responsibilities will be monitoring and inspecting waste disposal practices for the locality
- Provisions for splitting air and water samples so that the host locality may independently test samples with costs paid by the applicant..

No host agreement or certification is required if the owner or operator is a locality or service authority. Locally owned and operated facilities must provide information on travel routes and traffic volumes, the daily disposal limit and the service area of the facility [9 VAC 20-80-500-B 8].

h. *Director's Determination of Need* [9 VAC 20-80-500 B 9] For applications for new solid waste management facilities or amendments requesting facility expansions or increases in capacity, the director is required to determine that there is a need for the additional capacity [§10.1-1408.1.D.1 of the Code of Virginia]. The information in this section of the regulations requires information to be submitted in order to assist the director with the required investigation and analysis. Two options are available for submitting information under 9 VAC 20-80-500 B 9a or 9b. The Waste Information and Assessment Program report that is prepared each year, includes the available disposal capacity in the state. This information may be used to fulfill the provisions of 9 VAC 20-80-500 B 9 b. In addition, applicants can provide additional information that is not required by the regulation for the director to consider when justifying that there is a need for the additional capacity that is provided by the facility.

2. Administrative Procedures.

- a. The NOI will be submitted to the Waste Compliance and Permitting Manager in the region in which the facility is located.
- b. The Waste Permitting and Compliance Manager shall assign the review of the NOI to a permit writer within 2 working days of receipt. If the notice was accompanied by a Part A application, one copy of the Part A will be forwarded to the Groundwater Permit Manager in the Central Office for processing of the Part A application. Within 5 days of initial receipt of the applications, the permit writer will acknowledge that the NOI has been received with an [NOI Acknowledgment Letter](#).
- c. The permit writer shall review the submitted NOI for completeness. For all permits and permit amendments, a correctly completed NOI shall be required before the application can be processed further. If the NOI has missing documents, has not been prepared correctly or does not include a permit application fee, it will be returned to the applicant with a letter noting the deficiencies. See Appendix IIA, [Notice of Deficiencies \(NOD\) Letter](#) to the applicant. The NOD shall be sent to the applicant within 15 days of the receipt of the NOI. The applicant should correct any deficiency in the NOI. The permit writer will request that the applicant return the corrected NOI within 14 days of the date on the NOD.
- d. The permit writer should open lines of communication lines with the applicant early in the review process and offer to hold a pre-application meeting to discuss regulatory and technical issues.

e. Once the NOI has been found to be complete, the Part A permit writer in Central Office may start working on the Part A of the permit application if it has been received. The permit writer will notify the applicant that the NOI has been completed with an [NOI Complete Letter](#) as shown in Appendix IIA.

Appendix IIA

[NOI Acknowledgment Letter](#)

[NOI NOD Letter](#)

[NOI Complete Letter](#)

[NOI and Part A Checklist](#)

B. PART A APPLICATION [9 VAC 20-80-500 D]

To continue with the permit application process, the owner or operator should file an original and four copies of the complete and current Part A of the permit application with the Department. Submission of electronic copies of the application should be encouraged and may be submitted in lieu of paper copies.

1. Contents of Part A Application. Part A of the application for a solid waste management facility permit contains information essential for the assessment of the suitability of the site for its intended uses. As a minimum, the application shall contain the following information:

- a. *Application Form* [9 VAC 20-80-510 A and Appendix 7.3]. Each Part A application shall contain a fully completed Part A Application Form (form SW7-3). Entries that are not applicable to the type of the permit being applied for should be marked with "N/A" rather than leaving them blank. The statements about the siting criteria (Section II of the Form) should be cross-referenced to the documents and maps attached to the form.
- b. *Permit Application Fee* [9 VAC 20-90-50]. The application must be accompanied by a check for the required permit application fee. The fee is due with the notice of intent as stated in 9 VAC 20-90-60 A 2. Applications not accompanied by the proper fee or containing insufficient fees will not be considered complete and shall not be processed by the Department. For the disposition of the incomplete application, *see* Section [II.B.2.e](#).
- c. *Maps* [9 VAC 20-80-510 B and C]. One or more key maps delineating the general location of the proposed facility shall be appended to the application. It should also contain a near-vicinity map delineating an area of 500 feet from the perimeter of the property line of the proposed facility drawn to a minimum scale of 1" = 200'. The detailed requirements are specified in regulations and *Submission Instructions No.1*.
- d. *Proof of Ownership* [9 VAC 20-80-510 D]. Except in the case that the applicant is a local governing body or a regional authority possessing a power of eminent domain, the application shall contain a copy of deed (showing page and book location), lease, option to purchase, or other certification of ownership of site.
- e. *Facility Location Requirements* [9 VAC 20-80-180 B, and 250 A, 260 A, 270 A, 330 B, 340 B, 360 B, 370 B, 400 B or 470 B]. Solid waste management facilities must be properly located to ensure that their performance will not lead to unapproved releases to the environment and to keep the unit from areas where the public and sensitive natural environments may be adversely affected. Part A application shall describe how the siting

standards will be met and shall be supported by the necessary maps identified in Section [II.B.1.c.](#)

f. *Hydrogeologic and Geotechnical Report* [9 VAC 20-80-510 E]. For solid waste disposal facilities, the application must contain a hydrologic and geotechnical report. The hydrologic report (and any geological reports) should be submitted by a Virginia certified professional geologist. The geotechnical report should be submitted by a Virginia certified professional engineer. The report shall include, as a minimum, the material outlined in the *Submission Instructions No. 1*.

g. *Description of Site Geology* [9 VAC 20-80-510 F]. For other facilities, the application shall contain a description and a catalog of aquifers and geological features that might affect the operation of the facility. If a geological map or report from either the Virginia Department of Mines, Minerals and Energy (VDMME) or United States Geological Survey (USGS) is published, it shall be included.

h. *Notification Statement* [9 VAC 20-80-510 G]. The application must contain a signed statement by the applicant indicating that a written notice has been provided to the adjacent property owners or occupants. The notice must indicate that the applicant intends to construct a SWMF on the site. The applicant must also provide the list of names and addresses that were contacted.

Note: On the effective date of Amendment 3 of the Virginia Solid Waste Management Regulations the provisions below will be replaced with the provisions in the next section of this document.

i. *Other Information*. Although not a requirement of the Part A application at this time, it should be noted that the Code of Virginia does contain some requirements that a site must meet to receive wastes. §10.1-1408.4 requires the director to determine in writing that a site for a new municipal solid waste (MSW) landfill is suitable. In order to evaluate the suitability of a site, among other items, the director must consider a report prepared by the Virginia Department of Transportation (VDOT) and the potential impact of the landfill on park and recreational areas, public water supplies, marine resources, wetlands, historic sites, fish and wildlife, water quality and tourism. In addition, §10.1-1408.1 D 1 of the Code of Virginia requires all waste management facilities to be consistent with the local solid waste plan (Regulations for the Development of Solid Waste Management Plans, 9 VAC 20-130) and requires facilities to be in the public interest. The permit writer should also note the requirement of the Code of Virginia in §10.1-1408.1 D 1, which requires the evaluation of comment from the host locality, other localities and interested persons. If information concerning these legislative

requirements has not been submitted with the initial NOI or the Part A application, the permit writer shall note that information is required to address these statutory requirements in the next correspondence to the applicant. The department has guidance for fulfilling these legislative requirements is provided in *Submission Instructions No. 9*.

Note: The following regulatory provisions should be evaluated following the effective date of Amendment 3 of the Virginia Solid Waste Management Regulations.

i. *VDOT Adequacy Report* [9 VAC 20-80-510 G] For applications involving new sanitary landfills, the Virginia Department of Transportation is required under 10.1-1408.4.A.1 of the Code of Virginia, to prepare a report addressing the adequacy of the transportation facilities serving the facility.

j. *Landfill Impact Statement* [9 VAC 20-80-510 H] For applications involving new sanitary landfills a report is required addressing the potential impact of the landfill on parks, recreational areas, wildlife management areas, critical habitat of endangered species as designated by federal state and local agencies, public water supplies, marine resources, wetlands, historic sites, fish and wildlife and tourism.

k. *Consistent with the Local Solid Waste Management Plan* [9 VAC 20-80-510 J] For all waste management facilities, §10.1-1408.1 of the Code of Virginia requires facilities to be consistent with the local solid waste management plan. The regulations require the submission of information demonstrating that the facility is consistent including:

- A discussion of the role of the facility in the planning region;
- A discussion of the capacity provided by the facility; and
- References to the solid waste management plan where the facility has been addressed.

l. *Public Interest is Served* [9 VAC 20-80-510 K] For all waste management facilities, §10.1-1408.1 of the Code of Virginia requires facilities serve the public interest. General information is provided for the director to consider when making his required investigation and analysis. In addition, applicants can provide additional information that is not required by the regulation for the director to consider when justifying that the public interest is served by the facility.

2. Administrative Procedures.

a. The Part A application will be submitted directly to the Part A Reviewer in the Central Office. If the Part B application is provided with the Part A application the Part B application will be forwarded to the Waste Compliance and Permitting Manager in the

regional office. Review of the Part B application will not proceed until the Part A has been approved.

b. If the NOI accompanies the Part A application, procedures required by Section [II.A.2.b](#), shall be initiated prior to beginning review of the Part A application.

c. If the permit application fee payment is attached, the Part A Reviewer will submit the check to the DEQ fiscal office, Accounts Receivable. A photocopy of check will be sent to the Waste Compliance and Permitting Manager along with the original correspondence.

d. The Part A Reviewer shall perform an administrative (completeness) review of the Part A submission. A [completeness checklist](#) will be prepared by the Part A Reviewer. . The review shall be completed in 15 days (9 VAC 20-80-500 C 2) and shall be designed to determine that:

- (1) The permit application form is present and is correctly filled out without blank entries;
- (2) Section II of the application form correctly cross-references the documents and maps;
- (3) The permit application fee has been attached and in correct amount. Unless Permit and NOI was previously submitted (permit fee is required with NOI per 9 VAC 20-90-60 A 2);
- (4) Maps consistent with *Submission Instructions No. 1* are present;
- (5) The proof of ownership accompanies the application in case of non-governmental applicants;
- (6) All siting requirements are addressed;
- (7) In the case of solid waste disposal facilities, a hydrogeologic and geotechnical report has been attached;
- (8) In the case of storage and treatment facilities, a description of the site geology has been attached; and

(9) A properly signed statement regarding notification of adjacent property owners has been attached.

e. Should the completeness review indicate that the application is administratively incomplete, the Part A Reviewer shall prepare a [Part A NOD Letter](#) to the applicant (*see* Appendix IIB). If the only item missing from the application is the required permit application fee, the reviewer will send out a NOD to that effect and will cease the processing of the application until proper payment is received. The NOD will request that the applicant correct any deficiencies in the application and then return the updated application to the reviewer within 14 days of the NOD. At the discretion of the Part A Reviewer, the 14-day time limit may be extended in cases when the deficiencies might require extensive effort. In all cases the NOD must include a timeframe for submission of the updated application. The NOD letter should recommend that the applicant obtain the *Submission Instructions for Solid Waste Permit Applications*. A copy of the Part A application [completeness checklist](#) shown in Appendix IIB shall be provided to the applicant with each NOD. A copy of the application fee check and all NOD letters will be sent to the regional Waste Compliance and Permitting Manager.

(1) If a time limit designated in the NOD expires and the Part A Reviewer receives no response to the NOD from the applicant within the time limit, the reviewer shall contact the applicant by telephone to try to obtain the required information. If information has not been received within 5 days of the conversation or if the applicant cannot be contacted, the reviewer shall send a letter requesting a response to the NOD. The letter will state that if a response is not received within 30 days, the application will be returned without further review (9 VAC 20-80-500 C 2). Resubmission of the application will be required with the appropriate fee to begin the application process.

(2) The application shall be deemed complete if all issues presented in the NOD have been addressed in the updated Part A application notwithstanding any technical issues that will be addressed during the technical review phase.

(3) If the Part A was accompanied by a request for variance from siting requirements, the variance shall be addressed first before the technical review commences. These variances shall be handled in accordance with Section [V.B](#). This is especially important whenever other state agencies (*e. g.*, Department of Aviation or Department of Transportation) are relied on for their recommendations. However, should the variance be requested for a minor deviation from the regulations and will likely be approved, the technical review could proceed simultaneously with the processing of the variance.

f. If no variances have been received, the reviewer shall proceed with the technical review of the Part A application. As the technical review of the submission proceeds, the permit writer shall continue to fill out the [Part A Application Checklist](#), Appendix IIB. The Part A Reviewer should visit the proposed site if the applicant and the site owner give permission. The Part A Reviewer will discuss any site visits with the Waste Compliance and Permitting Manager in the region where the facility is located, to determine if a permit writer from the regional office will participate in the site visit. The Part A Reviewer may ask the applicant for additional information that was omitted or was not described in sufficient detail. This includes the information provided in the hydrogeological and geotechnical reports. The application should provide the Part A Reviewer with all facility information necessary to demonstrate compliance with the siting requirements and the information required for the design of the facility and the monitoring systems. The Part A Reviewer may invite the applicant to meet to discuss technical issues if such a meeting would help to minimize the number of reviews during technical review phase. The applicant should be encouraged to attend the meeting with their consultant. If the technical review reveals deficiencies, the application will be deemed technically deficient.

g. If the Part A application is deemed to be technically deficient, the Part A Reviewer shall prepare a Part A [Part A NOD Letter](#) to the applicant (*see* Appendix IIB). The NOD sent to the applicant may include a statement recommending that the applicant or a representative of the applicant meet with the OWP staff to discuss the deficiencies noted. This NOD should warn the applicant of the potential for disapproval of the Part A application. The NOD letter should indicate that a response to the department is required within 30 days of the date of the NOD letter. A copy of all NOD letters concerning the Part A application will be sent to the regional Waste Compliance and Permitting Manager. If no meeting was held and the application still contains major deficiencies, the permit may be disapproved or it may be approved with conditions to be made part of the Part A approval. In those instances, the Part A Reviewer shall discuss the issue with the Director of OWP. If some revision to the application is necessary, a second NOD shall be sent specifying the corrections needed to approve the Part A. A timeframe will be provided for re-submittal of the additional information.

h. Once the Part A application is deemed to be technically adequate, the department has 90 days for landfills or 60 days for other facilities to approve the Part A application (permit processing goals). If a Part A application is approved, the [Part A Approval Letter](#) (see Appendix IIB) shall be sent to the applicant. The letter should include a statement recommending that prior to commencing work on or submitting a Part B application, the applicant should meet with agency staff to discuss the applicable regulatory requirements. If the Part A application is disapproved, a [Part A Disapproval](#)

Letter will be sent to the applicant. The letter must include statements regarding the procedures for appeal consistent with the Administrative Process Act.

Appendix IIB

[Part A Application Checklist](#)

[Part A NOD Letter](#)

[Part A Approval Letter](#)

[Part A Disapproval Letter](#)

C. PART B APPLICATION [9 VAC 20-80-500 D and 520, 530 or 540]

Upon the receipt from the Department of the notice of approval of the Part A application, the applicant should prepare and submit three copies of the documentation supporting the Part B application. Submission of electronic copies of the application should be encouraged and may be submitted in lieu of paper copies.

1. Contents of the Part B Application. The required Part B documentation varies depending on the type of the proposed solid waste management facility. The Submission Instructions for Solid Waste Management Facilities show detailed requirements.

a. *Plans* [9 VAC 20-80-520 A, 530 A or 540 A]. The application should be accompanied by the following plans prepared by a Virginia registered professional engineer.

(1) Design Plans [9 VAC 20-80-520 A 1, 530 A, or 540 A]. *Submission Instructions Nos. 2, 3, or 4* give detailed instructions on the contents of these plans.

(2) Closure Plan (9 VAC 20-80-520 A 2, 530 F, or 540 F, and 560 B). A closure plan for all facilities must be a part of the application. *Submission Instructions No. 6* give the detailed instructions.

(3) Emergency (Contingency) Plan [9 VAC 20-80-520 C 2 k, 530 E, or 540 D]. An emergency plan, which delineates procedures for responding to fire, explosions, or any other unplanned sudden or non-sudden releases, should be a part of the application. For greater detail see *Submission Instructions No. 7*.

b. *Design Report* [9 VAC 20-80-520 B, 530 B or 540 B]. The application should also contain a design report, which explains and supplements the design plans and shows all the design calculations. The detailed instructions are shown in *Submission Instructions No. 2, 3, or 4*, and, if applicable, *Submission Instructions No. 5, 11, or 12*.

c. *Construction Quality Assurance Program Plan (CQA)* [9 VAC 20-80-250 B18]. The application shall contain a written plan that ensures the constructed waste management unit meets or exceeds all design criteria, plans and specifications in the permit. The program shall be developed and implemented under the direction of an independent CQA officer who is a Virginia registered professional engineer. The CQA officer must work for an independent consulting firm and should not be an employee of the owner or operator. The detailed instructions are shown in *Submission Instructions No. 2*.

d. *Operations Manual* [9 VAC 20-80-520 C, 530 D or 540 C]. The application should be accompanied by an operations manual, which provides the detailed procedures by which the operator shall implement the design plans and specifications. See *Submission Instructions No.8.* for detail.

e. *Permit Application Fee* [9 VAC 20-90, Appendix 3.1]. The Part B application shall be accompanied by the Part B application fee. Applications without applicable fees will be considered to be incomplete and will not be processed by the Department. In the event that no proper fee has been received, the permit writer will send out a NOD to that effect and will cease the processing of the application until proper payment is received.

f. *Financial Assurance Documentation* [9 VAC 20-70-90, 111, 112, and 113; 9 VAC 20-80-500 D1,]. Applications for all facilities shall include demonstration of compliance with the Financial Assurance Regulations for Solid Waste Facilities. Until the closure plans are approved and a draft permit has been prepared, the applicant must provide evidence of commitment to provide the required coverage. For detailed instructions see *Submission Instructions No. 9.*

2. Administrative Procedures.

a. Applications that involve only groundwater issues will be submitted to the Central Office Groundwater Permits Manager. Applications that deal with issues in addition to groundwater will be submitted to the applicable Waste Compliance and Permitting Manager.

b. The applicable Permit Manager shall assign the review and forward the Part B permit application to a permit writer within 2 working days of receipt. For applications submitted to the Regional Office, if there are groundwater issues associated with the application, one copy of the Part B will be forwarded to the Groundwater Permit Manager for review.

c. The applicant will forward the permit application fee directly to the fiscal office of DEQ, Accounts Receivable. When the permit application is submitted the applicant will submit a copy of the check and transmittal letter to DEQ. If the permit application fee is included with the permit application, permitting staff will forward the fee to the DEQ fiscal office and a copy of the check will be retained for permitting records. Applications without fees will not be reviewed.

d. The completeness review must be completed within 60 days from receipt of the Part B application (9 VAC 20-80-500 D 2). During the review of the application, the Permit Writer will complete the checklist appropriate to the type of facility (*see [Appendix IIC](#)*).

The permit writer will coordinate a schedule for a response to the application with the groundwater permit writer.

e. Actions Based on Administrative Review.

(1) Should the administrative review indicate that the application is administratively incomplete, and additions or revisions are required prior to any full technical review, the permit writer shall prepare a [Part B NOD Letter](#) to the applicant (*see* Appendix IIC). If the only item missing from the application is the required permit application fee, the permit writer will send out a NOD to that effect and will cease the processing of the application until proper payment is received. The applicant will correct any deficiencies in the application and the updated application should be returned to the permit writer within 45 days of the NOD. With the approval of the Waste Compliance and Permitting Manager or the Groundwater Permit Manager as applicable, the 45-day time limit may be extended in cases where the deficiencies are major and the correction might require extensive efforts. In all cases the NOD must include a timeframe for submission of the updated application. The above time limits may be discussed with the applicant. A copy of the appropriate checklist(s) shown in [Appendix IIC](#) shall be provided to the applicant with each NOD. If no meeting had previously occurred prior to submittal of the Part B, the NOD should contain a recommendation that the applicant meet with the DEQ staff to discuss the specifics of the review.

(2) If the permit writer receives no response to the NOD from the applicant within the time limit, the permit writer shall contact the applicant by telephone to try to obtain the required information. If information has not been received within 5 days of the conversation or if the applicant cannot be contacted, the permit writer shall send a letter requesting a response to the NOD. The letter will state that if a response is not received within 30 days the application will be returned. When the application is returned a [Part B Return Letter](#) will be provided indicating that since no response has been provided, the department could not continue processing the application.

(3) Once a response to the first NOD is received, the revised Part B will again be subjected to administrative review. If still found to be incomplete, a second NOD will be sent noting that the revised Part B application is still incomplete and unacceptable, and another Part B application must again be submitted.

(4) If after a third administrative review, the application is still found to be incomplete, a third NOD will be provided indicating that there will be no further evaluation of the application until a complete application is received.

(5) Should the Part B application contain one or more petitions for variance, the permit writer should evaluate the merits of the petitions and discuss the likelihood of approval with the Waste Compliance and Permitting Manager or the Groundwater Permit Manager as applicable. If the likelihood of approval is high, the variance request should be processed simultaneously with the permit application while pursuing the variance request in accordance with the procedures outlined in Section [V.B.](#) of this document. Should the variance request be difficult to approve, its processing should be given high priority and should be pursued first in accordance with Section V.B. before the work on Part B application is resumed.

(6) The Part B application shall be deemed to be complete if all issues have been addressed notwithstanding any technical issues that will be addressed during the technical review phase. If the Part B application is found to be complete enough to proceed to the full technical review, a letter acknowledging acceptance of the application (*see* [Part B Application Complete](#), Appendix IIC) shall be sent to the applicant. In addition, the application shall be forwarded to other state agencies according to the nature of the facility (9 VAC 20-80-500 D 3). Issues to consider when determining the involvement of other state agencies include any potential releases to the air, water or to wetlands as well as impacts to plants, animals, sensitive historical areas, and parks. The permit writer will coordinate the list of appropriate agencies to contact with the Waste Compliance and Permitting Manager or the Groundwater Permit Manager as applicable (*see* [List of Appropriate Agencies](#), Appendix IIC).

f. Technical Review. Once the Part B application has been found to be administratively complete, the permit writer shall start the technical review. Processing of the complete application is allotted 180 days for landfills and 120 days for other facilities (permit processing goals). As the technical review proceeds, the permit writer shall continue to fill out the appropriate checklists from among those shown in [Appendix IIC](#). The permit writer may contact the applicant for additional information that has been omitted or was not described in sufficient detail. Any comments regarding the plan should be submitted electronically to the permit writer to be included in the [Part B NOD Letter](#). The permit writer may invite the applicant to meet to discuss technical issues if such a meeting would help to minimize the number of reviews during technical review phase. The applicant should be encouraged to attend the meeting with their consultant. A meeting will also allow the applicant to respond to the deficiencies found prior to finalizing the NOD.

g. Actions Based on Technical Review.

(1) First Technical Review. If the Part B permit application is found to be deficient based on the first full technical review, it shall be deemed technically incomplete and the permit writer shall prepare a [Part B NOD Letter](#) stating the areas of technical deficiency (*see* Appendix IIC). The NOD should also contain a recommendation that the applicant meet with the Part B review staff to discuss the deficiencies noted. The NOD should also include a request for the applicant to submit modifications or additional information within 30 days of receipt of the NOD. If fieldwork is necessary, request the submission to be accomplished within 45 days. If additional time is required, the applicant shall submit a request for this additional time with the understanding that this will likely result in delay of application review and permit decision.

(2) Second Technical Review. If a revised application has been received as a result of the first full technical review, the permit writer shall perform the second full technical review of the revised Part B application. The permit writer must acknowledge the submission of the revised application within 10 days and complete technical review of the application within 60 days. If previously noted major deficiencies from the first full review still exist, permit denial may be pursued. In those cases, the permit writer shall discuss the unresolved deficiencies with the Waste Compliance and Permitting Manager or Groundwater Permit Manager and the Deputy Regional Director or the Director OWP as applicable. If the director agrees that denial may be pursued the procedures in Section [III.C](#) will be implemented. If the decision is to continue processing the application, a second technical NOD will be sent specifying the revision required to the Part B Application and noting that if the application is resubmitted with uncorrected major deficiencies, DEQ may pursue denial of the permit. This NOD shall specify a time limit by which the response is expected.

(3) Third Technical Review. If a revised application has been received as a result of the second full technical review, the permit writer shall perform the third full technical review of the revised Part B application. The permit writer must acknowledge the submission of the revised application within 10 days and complete technical review of the application within 60 days. If only a few minor deficiencies are noted, a third technical NOD will be sent specifying minor revisions necessary to the Part B application in order to proceed with drafting the permit. If, on the other hand, major uncorrected deficiencies remain after the third review, permit denial may be pursued in accordance with the provisions in Section [III.C](#). In this case, the permit writer shall discuss the deficiencies leading to the denial with the Waste Compliance and Permitting Manager or Groundwater Permit Manager and the Deputy Regional Director or the Director of OWP as applicable. In few, clear-cut cases, the permit

writer may insert a permit condition that would limit the scope of the permit *in lieu* of recommending the denial.

(4) Technical Review of Closure Plans. Once the technical review of the closure plans is complete, the permit writer shall check the basis for the closure costs and shall ensure that the application contains proper documentation assuring that the applicant will be able to provide financial assurance before the start of operations. The review of the basis for closure cost, the review of the financial mechanisms and the coordination between the Office of Financial Assurance and the regional office will be performed in accordance with the procedures in Section [IV](#).

(5) Technically Adequate Applications. The permit writer will then begin the process of Permit Issuance in Section [II D](#).

Appendix IIC

Checklists

Landfill Application

Incinerator/Energy Recovery Facility Application

Other Facilities (Part 6)

Closure and Post-Closure

Emergency (Contingency) Plan

Operation Manual

Gas Management Plan

Groundwater (SLF)

Groundwater (CDD/Ind)

Other Items

Part B NOD Letter

Part B Return Letter

Part B Application Complete

List of Appropriate Agencies

D. PERMIT ISSUANCE [9 VAC 20-80-500 E].

Once the permit application has been reviewed and the decision has been made to issue the permit, the permit writer shall start drafting the permit and prepare for the public participation prior to the issuance. The permit writer is allotted 90 days to prepare the final permit and conduct the public hearing.

1. Site Visit. Prior to permit drafting the permit writer should visit the proposed site if the permission of the applicant and site owner has been received.

2. Draft Permit.

a. The permit writer shall start to develop the draft permit using the appropriate modules and attachments (*see* [Module I](#), Appendix IID). The Waste Compliance and Permitting Manager or Groundwater Permit Manager shall review the draft permit and once the comment response and finalization phases are completed, the final permit.

b. In the case of disposal facility permits, the Groundwater Permit Writer will prepare Permit Modules X and XI (*see* Appendix IID) which are included in the draft permit. Eight man-hours will be allotted to this task. The Groundwater Permit Manager shall review the Modules prior to forwarding them to the appropriate permit writer to include in the draft permit.

c. The permit writer shall develop and include schedules of compliance in permits, when appropriate, to be included in Permit Module I.

d. The permit writer must provide a letter to the applicant in order to obtain authorization to bill the applicant for advertising costs for the public hearing. A letter will be sent to the applicant (*see* [Billing Authorization](#), Appendix IID) at the same time the draft permit is forwarded for internal comments. The letter requests that the authorization be provided within 14 days. A draft of the hearing notification is sent out with this letter so the location of hearing should be determined. The date of the hearing should not be finalized until after receiving the signed billing authorization from the applicant.

e. Once the draft permit is completed and reviewed, copies will be distributed to other offices within the Department of Environmental Quality (including the appropriate Regional Office) (*see* [Draft Permit Transmittal Memo](#), Appendix IID). Two weeks will be provided for comments internal to DEQ. Any comments on the draft permit will be provided to the Waste Compliance and Permitting Manager or Groundwater Permit Manager as appropriate. After comments have been evaluated and any changes incorporated into the draft permit, the permit will be finalized. After the draft permit is

completed other state agencies, and persons listed on the public notice mailing list will be provided a copy of the draft permit. The draft permit will then be forwarded with a letter (see [Part B Approval Letter](#), Appendix IID) to the applicant and a cover memo to the Director OWP or the Deputy Regional Director, as appropriate for final review (see [Draft Permit Cover Memo](#), Appendix IID). Note that the arrangements for public hearing have to be made prior to sending out this correspondence. Included in the letter to the owner/operator is an authorization for the department to bill the applicant for the public notice as provided in the Permit Action Fee Regulations (9 VAC 20-__)

3. Public Notice and Hearing.

a. Promptly after completion of the draft permit, the permit writer shall set the date for the public hearing. For groundwater amendments, the hearing date will be set after consulting with the appropriate regional office. The meeting will be coordinated with the regional office to allow the opportunity for a regional representative to attend the hearing. Public notice of the availability of the draft permit shall be given by publication in a newspaper of general circulation in the county, city or town in which the facility will be located. A format for the public notice is shown in Appendix IID (see [Public Notice](#), Appendix IID). Copies of the draft permit shall be sent to the applicant and to agencies of the local government as outlined in [II.D.3a.\(5a\)](#) and (5b) below (a library, county administrators office, DEQ Regional Office, etc.) The draft permit will be available for public viewing at these locations. The permit writer must:

(1) Arrange for a public meeting room.

- The room must be in the locality of the facility. No fee for the room is expected unless no other meeting room is available.
- The meeting is usually held in the board of supervisors meeting room at the County Courthouse, but other administrative buildings and libraries are also options. Adequate seating for 50 or more people should be available.
- Call the local administrative offices and obtain available dates, and the location of the meeting room.

(2) Prepare an advertisement for the public hearing

- Must be advertised in a newspaper with circulation in the vicinity of the facility.
- Obtain recommendation from the locality staff (city/county), and the facility for the newspaper to use.
- The ad should be run in the legal notice section of the newspaper.

- The hearing must be held a minimum of 30 days from the date the advertisement is run.
- The close of the public comment period is a minimum of 15 days after the public hearing.
- Provide administrative staff an electronic copy of the advertisement to appear in the newspaper, the date it is to appear, and the name of the newspaper. Administrative staff will complete an agency requisition for the news paper advertisement.

(3) Arrange for a hearing officer.

- Obtain the name of the hearing officer.
- Ensure that the hearing officer is available on the date that the hearing is scheduled. Usually the Hearing is held Tuesday thru Thursday, after normal working hours at 7:00pm.

(4) Make arrangements for a court reporter if necessary. The Waste Compliance and Permitting Manager or the Groundwater Permitting Manager will determine if the permit merits a court reporter due to controversial issues or extensive public participation. Otherwise the proceeding must be recorded and a copy of the recording retained in the facilities file.

- Groundwater staff can arrange for a court reporter w/ Cynthia Houchens (x-4145).

(5) Send out notifications. Two types of letters need to be sent out to inform various parties that the public comment period for the permit has been opened and the date and time that the public comment period is to close.

(a) Send out a full copy of the permit with cover letter #1 (*see* [Notification Cover Letter 1](#), Appendix IID) to:

- The facility's engineering firm *
- The highest elected official in the locality **
Usually: Mayor (City), Chairman of the Board of Supervisors (County)
- Highest appointed official **
Usually: City Manager, County Administrator
- Waste Compliance and Permitting Manager for amendments for groundwater only.

* - The appropriate name and address can be obtained in the permit application

** - The appropriate name and address can be obtained by calling the locality

(b) Send out cover letter #2 (*see* [Notification Cover Letter 2](#), Appendix IID) with a USGS map, and a copy of the advertisement for public notice to the individuals/agencies on the notification list (*see* Permit Notification List, Appendix IID).

- The list must be kept current.
- These are the agencies that are to be notified when a draft permit is issued.

(c) Copies of the letters sent will be provided to the regional office for amendments involving groundwater issues. Copies of cover letter #2 will have one copy of the advertisement, and the USGS map attached to the back of the stack of letters.

b. No sooner than 30 days after the publication of the notice, the public hearing shall be held in the locality near the facility. The purpose of the hearing is to take public comment on the technical merits of the permit. The opening statement of the Hearing Officer should be prepared in the format shown in Appendix IID (*see* [Public Hearing](#), Appendix IID). The public participation period should extend for at least 15 days after the public hearing is held.

c. All permit files shall contain a copy of both actual public notices from the newspaper or a photocopy of the ads with a sworn statement from the newspaper. A photocopy without a sworn statement is not acceptable.

4. Permit Issuance. The time between the end of the public participation period and permit issuance or denial is limited in 9 VAC 20-80-500 E 4 to 30 days.

a. If a decision is made to deny the permit based upon comments received, the permit writer shall follow the denial procedures in Section [III.C](#) of this manual.

b. Upon completion of the public participation period, the permit writer shall determine whether any comments received should be incorporated in the final permit and, with the approval of the Waste Compliance and Permitting Manager or Groundwater Permit Manager (as applicable), shall make appropriate changes.

c. The permit writer shall prepare an approval memorandum package addressed to the Director of the Office of Waste Permitting or the Deputy Regional Director (as applicable). The approval memorandum package should contain the following (*see* Appendix IID):

- (1) Routing and transmittal slip (*see* [Transmittal Slip](#), Appendix IID);
- (2) Approval memorandum (*see* [Approval Memo.](#), Appendix IID); and
- (3) Transmittal letter to the applicant (*see* [Permit Approval Letter](#), Appendix IID); and
- (4) Response to public comments (*see* [Example Comment Document Cover Letter](#), Appendix IID); and
- (3) The original of the final permit.

d. The Deputy Regional Director or the Director of OWP, as applicable, will sign the permit and the transmittal letter for the Director. The permit writer shall send the original signed permit to the applicant. Complete copies of the permit and all pertinent documents and files shall be sent to the regional office. A minimum of 3 signed copies should be made to send to the consultant, the regional office and one for central office files. Additional copies will be made available to the public upon request.

e. After the decision regarding the issuance of the draft permit has been made, the permit writer will respond to those individuals (*see* [Example Comment Letter](#) in Appendix IID) who commented during the public comment period and inform them of the decision regarding the draft permit. All comments will be addressed in one document. Copies of the document will be forwarded to all of the individuals who provided public comment.

f. During the construction of the facility, the permit writer should inspect the site to ascertain proper completion of environmentally important phases. After the facility has been constructed and the Department is notified to that effect, the permit writer shall visit the facility to determine if construction is complete and the facility is ready to start accepting solid waste. The permit writer shall discuss the time and date of the planned inspection with the Waste Compliance and Permitting Manager and provide the opportunity for regional compliance staff to attend the inspection. CTO inspection checklists, specific to the facility type, are provided in [Appendix IID](#).

g. After completion of the site inspection, the review of the construction quality assurance report and the professional engineer certifications, the permit writer shall send the letter to the facility confirming that operations may begin. A sample letter is shown in Appendix IID (*see* [CTO Letter](#), Appendix IID).

h. The permit writer will discuss the permit with the Solid Waste Inspector. A meeting will be arranged to discuss the facility permit and any associated compliance issues.

Appendix IID

[Module I](#)

[Module X \(CDD, Ind.\)](#) for CDD or Industrial Landfills

[Module X \(San\)](#) for Sanitary Landfills

[Module XI \(CDD, Ind.\)](#) for CDD or Industrial Landfills

[Module XI \(San\)](#) for Sanitary Landfills

[Public Notice](#)

[Notification Cover Letter 1](#)

[Notification Cover Letter 2](#)

[Permit Notification List](#)

[Public Hearing](#)

[Transmittal Slip](#)

[Draft Permit Cover Memo](#)

[Part B Approval Letter](#)

[Approval Memo.](#)

[Permit Approval Letter](#)

[Example Comment Letter](#)

[Example Comment Document Cover Letter](#)

[CTO Letter](#)

[CTO CDD Checklist](#)

[CTO ILF Checklist](#)

[CTO SLF Checklist](#)

Section III PERMIT AMENDMENT, REVOCATION AND DENIAL

A. PERMIT AMENDMENT [9 VAC 20-80-620].

1. General.

- a. 9 VAC 20-80-620, provides two mutually exclusive avenues for permit amendments: the amendments that are initiated by the Department based on the existence of any cause listed in 9 VAC 20-80-620, and amendments that are initiated by the owner or operator of the facility. Amendments will be handled administratively depending on the type of the amendment listed in 9 VAC 20-80-620 F and Appendix 7.4 (Table 7.2) of the regulations. If the modification is not listed in the regulations, the presumption is that a major permit amendment is required unless the permittee submits the necessary information to support a lesser classification. The guidelines of 9 VAC 20-80-620 F 4 b are to be used for the determination of the proper classification.
- b. Administrative procedures associated with the amendment of existing SWMF permits are essentially identical to those required for issuance of new permits. The differences arise in the number of the permit modules that need to be amended.
- c. The fees to be submitted by the applicant in accordance with 9 VAC 20-90-10 *et seq.* depend on the number and the type of permit modules or other permit actions that need to be amended.

2. Minor Amendments.

- a. Except for amendments which require specific approval by the Director (*see* 9 VAC 20-80-620 F 1 b and 620 F 1 c), the permittee may put the desired changes into effect no sooner than 14 calendar days after notifying the Director, provided that the change is specifically listed in Appendix 7.4 (Table 7.2). The required contents of the notice is shown in 9 VAC 20-80-620 F 1 a(1).
- b. Requests for changes that require Director's approval will contain the information required under 9 VAC 20-80-620 F 1 a (1) or 620 F 1 c. The changes may only be effected after the permittee receives the approval in writing.
- c. The Permit Manager will assign the project to a permit writer within 2 working days of receipt. If there are groundwater issues associated with the application, one copy of the amendment will be forwarded to the Groundwater Permit Manager for review.

(1) If the amendment does not require prior approval by the Director, the permit writer will verify that the changes proposed by the permittee are properly classified. If so, within 14 calendar days, the permit writer will prepare a letter to acknowledge the receipt of the notification (*see* [Amendment Acknowledgement Appendix IIIA](#)), will review the completeness of the submission as far as the required information in accordance with 9 VAC 20-80-510, 520, 530 or 540. In addition, the permit writer will remind the permittee of the regulatory requirement to notify the local governing body of the county, city or town in which the facility is located within 90 days after the change is put into effect.

(2) Minor modifications to facility permits not requiring Director's approval, may be made by the permit writers using the forms, letters and memorandums included in the Appendices. However, these minor modifications should be limited to correction of typographical errors, format, and inclusion of additional information. The basic information included in the forms, letters and memorandums shall be considered minimum requirements and shall not be modified (*see* [Minor Mod Approval](#), Appendix IIIA).

(3) If the application is properly classified but requires Director's approval, the permit writer will initiate the approval process. If the application contains all the information required under 9 VAC 20-80-620 F 1 a (1) or 620 F 1 c, the permit writer should prepare the approval letter within 14 calendar days. The Director of OWP or the Deputy Regional Director, as applicable should sign the approval letter, for the DEQ Director. The letter of approval should require the permittee to notify the Department and the local governing body upon completion of the changes.

(4) If the proposed changes are not specified in Appendix 7.4, or if the information submitted along with the notification is deficient, the permit writer will return the notification and require the permittee to resubmit the request in accordance with 9 VAC 20-80-620 F 1 or 620 F 4, as applicable.

3. Major Amendment.

a. If the permittee requests a permit amendment that is listed in 9 VAC 20-80 Appendix 7.4 (Table 7.2), as requiring a major amendment, the information required under 9 VAC 20-80-620 F 3 a, shall be submitted to the Department, and shall proceed with public participation requirements contained in 9 VAC 20-80-620 F 3 b through 620 F 3 i.

b. Upon receipt of the application by the Department, it shall be transmitted to the applicable Permit Manager.

c. The Waste Compliance and Permitting Manager shall assign the review and forward the permit application to a permit writer within 2 working days of receipt. If there are groundwater issues associated with the application, one copy of the application will be forwarded to the Groundwater Permit Manager for review.

d. The permit writer shall initiate the evaluation procedures shown in Sections [II.B.](#) through II.D., as applicable.

4. Temporary Authorization.

a. In addition to a request for certain major permit amendments, the permittee may request a temporary authorization to manage solid wastes in accordance with 9 VAC 20-80-620 F 5, while the permit amendment is being processed.

b. Upon receipt of the request by the Department, it shall be transmitted to the applicable Permit Manager.

c. The Permit Manager shall assign the review and forward the request to a permit writer within 2 working days of receipt. If there are groundwater issues associated with the request for temporary authorization, one copy of the application will be forwarded to the Groundwater Permit Manager for review.

c. The permit writer shall determine whether the request contains the material required under 9 VAC 20-80-620 F 5 b (2) and fulfills the requirements of 9 VAC 20-80-620 F 5.

d. If these requirements are met, the permit writer may recommend to the Director of OWP or the Deputy Regional Director, as applicable, the issuance of the temporary authorization. If the request is not fully supported by the information received, the permit writer shall recommend that the request be denied. Procedures for denial are consistent with those outlined in Section [III.C.](#)

e. The permit writer shall prepare an approval memorandum package addressed to the Director of Waste Permitting or the Deputy Regional Director as applicable. The approval memorandum package should contain the following (see [Appendix IID](#)):

- (1) Routing and transmittal slip;
- (2) Approval memorandum; and
- (3) Transmittal letter to the applicant; and
- (4) Temporary authorization package.

f. The permittee shall be informed of the approval or the denial as quickly as practical (see [Temporary Authorization Approval Letter](#), Appendix IIIA).

Appendix IIIA

[Amendment Acknowledgement](#)

[Minor Mod Approval](#)

[Temporary Authorization Approval Letter](#)

B. PERMIT REVOCATION [9 VAC 20-80-600]

1. If, during the review process for a permit amendment or as a result of discussions with regional compliance staff or enforcement staff, the permit writer identifies a cause for revocation of the facility permit, the Permit Manager and the Director of OWP or the Deputy Regional Director shall be consulted on the course of action. Before any action is taken, the Waste Division Director or the Regional Director shall be consulted to obtain approval to proceed with the process. The Director may revoke a permit for any of the reasons listed in 9 VAC 20-80-600 A and B.

2. Any correspondence related to the permit revocation must include reference to the hearings and appeal procedures that are required under the Administrative Process Act.

C. PERMIT DENIAL [9 VAC 20-80-580].

This section deals only with the denial of an application for a new permit, permit amendment or temporary authorization. The denial of an application for a variance is covered in Section [V.B.](#) The procedures for adversarial proceedings in Section [III.C.3](#) may be used for any denial action including those for the denial of a variance application.

1. Initiation of the Process to Deny a Permit Application.

a. Upon identification of a cause for denial of the permit application, the permit writer shall consult with the applicable Permit Manager and the Deputy Regional Director or the Director OWP on the course of action. Before any action is taken, the Regional Director or the Waste Division Director shall be consulted to obtain approval to proceed with the process. Permit applications may only be denied for the reasons outlined in 9 VAC 20-80-580.

b. If the Department has recommended the issuance of a permit, but comments received during the public comment period persuade the department that there may be cause for denial, the permit writer shall notify the applicant of the intent to proceed with an informal fact finding proceeding to determine if sufficient justification exists to deny the application as shown in Section III.C.2.

2. Beginning the permit denial process. If the Deputy Regional Director or the Director of OWP has agreed to proceed with the denial process, the permit writer shall advise the applicant that sufficient reason exists for the department to pursue denial of the application and provide the requirements necessary to reverse the decision.

a. The notification may be part of a routine deficiency notification. However, the issues associated with the cause for denial must be clearly stated and separated from the deficiencies not associated with the decision to pursue denial of the application. An example of the letter of intent to pursue denial of the permit is shown in Appendix IIIC ([Notice of Intent to Pursue Denial](#), Appendix IIIC).

b. The applicant will have 14 days to respond to the letter. At this point, the applicant may either withdraw or modify the permit application. If the applicant does not respond in the 14-day period, the permit writer shall begin the procedures shown in Section [III.C.3](#).

(1) If the owner withdraws the application, the permit processing shall be stopped.

(2) If the owner modifies the application so that the reasons for pursuing denial of the application no longer exist, then the processing of the permit application shall be resumed at the point of interruption.

(3) If the applicant resubmits the application but fails or refuses to correct the deficiencies associated with the department's decision to pursue denial, the permit denial process will be initiated by the permit writer.

(4) If the applicant refuses to withdraw or modify the application the permit writer shall proceed with the denial process.

c. If the decision to pursue denial of the application resulted from the outcome of the public participation on the draft permit, the permit writer shall notify all people who commented on the permit issuance during public notice or at the public hearing of the department's intent to deny the application. In such cases, a second public participation period may not be necessary.

3. Administrative Process Act (APA) Adversarial Proceedings. As the denial action is initiated, it is important to remember that all activities associated with the denial process are subject to the Administrative Process Act, Chapter 40 of the Code of Virginia (§2.2-4000 through §2.2-4033). The Office of the Attorney General is available to answer any questions associated with the Administrative Process Act related to the denial process.

a. The permit writer shall prepare a denial package. The denial package shall contain the following:

(1) Memorandum recommending initiating the denial process (*see* [Denial Recommendation Memo](#), Appendix IIIC).

(2) Copy of responses to the public notice (if the action results from the comments received during the public participation period)

(3) Draft letter to responders (*see* [Example Comment Letter](#), Appendix IID).

(4) Application (and permit approval package if the action follows a public notice of intent to issue).

(5) Letter to the applicant announcing that the department will begin processing the application for possible denial (*see* [Fact Finding Proceeding Letter](#), Appendix IIIC).

(6) Chronology of all correspondence, meetings, site visits and other permit actions. Copies of all correspondence, notes, forms, memorandums and other documentation supporting the chronology will be attached. Any public information that the department will consider as the basis of proceeding with denial must be available to the applicant (see §2.2-4019 B of the Code of Virginia).

b. Office of the Attorney General involvement. A memo will be sent to the Office of the Attorney General (*see* [AG Denial Memo](#), Appendix IIIC) from the Waste Division Director or the Regional Director, as applicable. The memo will serve to inform the Office of the AG that the department reasonably anticipates the potential for litigation if the director determines that the application must be denied. The memo to the AG serves to involve, and establish a paper trail showing the involvement, of the department's Attorney (the AG). In response to this memo, we should anticipate an instruction from the AG to prepare files consistent with this permit manual and any work product documents such as memos or e-mails discussing the Department's strategy may be kept separate from the department records which must be provided to the applicant.

c. The [Fact Finding Proceeding Letter](#) informing the applicant of an informal fact finding proceeding consistent with §2.2-4019 of the Code of Virginia will be sent via certified mail. The date for the proceeding will be at least 30 days after the date of this letter.

d. To prepare for the proceeding the permit writer must:

(1) Arrange for a presiding officer for the informal fact finding proceeding (§2.2-4019). The informal fact finding proceeding may be conducted before "the agency or its subordinates" or before a "Hearing Officer" as defined in Code §2.2-4024. When a subordinate is used, the Waste Division Director or the Regional Director appoints the Presiding Officer from among the Department staff. The Presiding Officer should have some knowledge of the laws and regulations involved in the case. No one who has been substantively involved with the matter may serve as a Presiding Officer or serve in a supervisory role to the Presiding Officer. Mere knowledge of the case or peripheral involvement would not disqualify an employee from acting in this role. Where appropriate, the Presiding Officer may be appointed from the Central Office or another Regional Office.

(2) Arrange for a meeting room.

(3) Arrange for a court reporter or arrange for the proceeding to be taped as discussed with the Permit Manager

(4) Arrange for an individual to present information at the proceeding if necessary. The Permit Manager may choose to have an individual separate from the permit writer processing the application present the basis for denial at the proceeding.

4. Final Processing. The presiding officer shall provide a recommendation to the Director regarding the action to take on the permit application. The presiding officer's recommendation will be forwarded to the Director within 45 days of the informal fact finding proceeding. The Director will render a decision regarding the application within 90 days of the proceeding. If the presiding officer recommends denial of the permit application, the denial package will be sent to the Director for signature. If the presiding officer recommends an action other than denial, a letter to that effect will be forwarded to the Director for signature.

5. The reasons for denial must be provided to the applicant in writing within 30 days of the Director's decision to deny the permit (9 VAC 20-80-580 B) (*see* [Denial Letter](#), Appendix IIIC).

6. The applicant may appeal the permit denial pursuant to 9 VAC 20-80-590 or the APA.

Appendix III C

[Notice of Intent to Pursue Denial](#)
[Denial Recommendation Memo](#)
[Fact Finding Proceeding Letter](#)
[AG Denial Memo](#)
[Denial Letter](#)

Section IV FACILITY CLOSURE AND CLOSURE COST ESTIMATES

A. FACILITY CLOSURE AND POST-CLOSURE CARE [9 VAC 20-80-560].

The review and approval or disapproval of final closure plans for sanitary landfills is statutorily limited to 90 days from the day the Department receives the plan by certified mail. Because of this limit, work level efforts must be scrupulously observed. This 90-day timeframe includes any closure plans received in order to comply with an order.

Closure and post closure cost estimates will be reviewed using the procedures outlined in Section I of the Permit Manual.

Closure plans for other types of facilities are not subject to the 90-day timeframe. However the permit writer should attempt to comply with the 90-day review for all types of facilities for the sake of consistency.

1. Should the owner or operator of a SWMF submit a closure plan, alternate cap design, or post-closure care plan for approval, it will be transmitted to the Permit Manager for processing. The Permit Manager will assign the plan to a permit writer within 2 days. Within 10 days of receipt, the permit writer will acknowledge receipt of the closure plan in writing.
2. The submitted plan shall be reviewed for administrative and technical completeness (*see [Closure and Post-Closure](#) Checklist, Appendix IVA*). The permit writer will forward the application to the Groundwater Permit Manager and will coordinate a schedule for response to the application if necessary. If the plan is either administratively or technically incomplete, the permit writer shall send to the permittee an NOD stating the deficiencies within 30 days of receipt. The NOD shall require a response within 14 days of the receipt of the letter. This period may be increased up to 30 days by the reviewer if the deficiencies are judged to be extensive.
3. If a revised closure plan is submitted in response to the first NOD a second review will commence. If major deficiencies are still noted during this second review, the permit writer shall discuss the problems with the Permit Manager, as additional or different resolution methods might need to be pursued to meet the statutory deadline.
4. If no satisfactory resolution of deficiencies can be found, the facility should be referred to compliance for resolution of the deficiencies.

5. If the closure plan is technically adequate, the permit writer shall prepare an approval memorandum package addressed to the Deputy Regional Director. The approval memorandum package should contain the following (*see* Appendix IVA):

- Routing and transmittal slip (*see* [Transmittal Slip](#), Appendix IVA);
- Approval memorandum (*see* [Closure Approval Memo](#), Appendix IVA); and
- Letter to the applicant (*see* [Closure Approval Letter](#), Appendix IVA); and
- The original of the closure plan.

6. After the Closure Approval Letter (*see* Closure Approval Letter, Appendix IVA) has been signed by the Deputy Regional Director, the permit writer shall send the original signed closure plan to the applicant. Complete copies of the closure plan and all pertinent documents and the regional office shall maintain files. A minimum of 2 signed copies should be made to send to the applicant's consultant, and to be maintained by the regional office. Additional copies will be made available to the public upon request.

Appendix IVA

[Closure and Post-Closure Checklist](#)

[Transmittal Slip](#)

[Closure Approval Memo](#)

[Closure Approval Letter](#)

B. CLOSURE COST ESTIMATES

As part of the solid waste permitting process the permittee must submit a cost estimate (CE) for closure and if applicable, post-closure care of the facility, which must be reviewed and approved by DEQ. The financial assurance demonstration amount is based on the approved CE. The following addresses CE arising from:

- new permits and permit modifications;
- review of an existing cost estimate;
- local governments without an approved cost estimate; and
- negotiated or unilateral consent orders.

1. New Permits, Permit Modifications and Closure Plans. This section applies to any permit or closure plan submitted by an owner or operator of a solid waste treatment, storage or disposal facility for a permit, permit-by-rule, or modification to an existing permit or permit-by-rule.

a. When the Waste Compliance and Permitting Manager receives an application for a new permit, permit amendment or closure/post closure plan that affects the cost estimate/financial assurance mechanism, a permit writer will be assigned to review the application. The assigned permit writer must send a memo to the Director of the Office of Financial Assurance (OFA) (*see* [Financial Assurance Transmittal Memo](#), Appendix IVB). The memo must identify the name of the owner/operator, address of the facility, the contact person at facility, the permit number or permit-by-rule number, and the type of facility. In addition, any original financial assurance documents and liability mechanisms received as part of the application package must be forwarded to the OFA Director. The memo should indicate whether the OFA Director should contact the applicant directly with any questions or comments or whether the permit writer intends to act as the primary contact during the application process.

b. After review of the permit application or closure plan, the permit writer must notify the applicant of any additional information that may be required and must forward copies of any notices of deficiency containing comments on the closure cost estimate to the OFA Director. The initial completeness review should be completed within 60 days of receipt of the permit application.

c. Once the cost estimate is approved by the permit writer, the permit writer must send a memo to the OFA Director stating the approved amount of the CE for closure, post-closure, and/or corrective action (*see* [Approved Closure Cost Estimate Memo](#), Appendix IVB). The permit writer shall attach a copy of the detailed CE for the OFA file and RO file.

Note: The applicant is not required to use the DEQ form or format for cost estimates, but the applicant may choose to use DEQ's form. Any defensible cost estimate meets the

requirements of the regulations. If the applicant does not use the DEQ form, the permit writer may compare the cost estimate prepared by the applicant to a completed DEQ cost estimate to determine if the closure costs submitted by the applicant are reasonable (*see [DEQ Landfill Cost Estimate](#)*, Appendix IVB).

d. The OFA staff will verify that the approved CE is demonstrated with an approved mechanism in the correct amount. When acceptable financial assurance documentation has been received and in compliance with the Regulation, the OFA must send the and Waste Compliance and Permitting Manager a memo to confirm that the applicant is in compliance with the financial assurance regulation requirements (*see [OFA to OWP Memo](#)*, Appendix IVB). The OFA staff must send a compliance letter to the owner/operator with copies to the Waste Compliance and Permitting Manager.

2. Existing Cost Estimates. This section applies to permits and closure plans that are existing and the facility owner or operator wants to update the facility's cost estimate.

a. If a cost estimate has been approved for a facility and the owner or operator submits a new cost estimate then the RO must review the cost estimate. The RO staff will communicate any discrepancies or problems with the estimate directly to the owner/operator along with requests for revisions or additional documentation.

b. Once the cost estimate revision is approved by the RO, then the RO staff must send a memo to the OFA Director stating the approved amount of the CE for closure, post-closure, and/or corrective action. The permit writer shall attach a copy of the detailed CE for the OFA file.

c. The OFA staff must verify that financial assurance is provided, by ensuring that an appropriate mechanism covers the costs in the approved CE. The OFA staff must send a compliance letter to the owner/operator with copies to the Waste Compliance and Permitting Manager, and the RO Enforcement Specialist or Inspector. The letter will indicate whether the owner/operator is in compliance with applicable financial assurance requirements in accordance with the regulations.

3. Local Governments without an Approved Cost Estimate

a. Local government facilities without an approved cost estimate will be assigned to a RO inspector to conduct a facility inspection to assess the status of the facility. A copy of the inspection report and latest detailed cost estimate must be forwarded to the OFA Director. A permit writer will be assigned to review the report and cost estimate. Any discrepancies or problems with the estimate will be communicated by the permit writer directly to the owner/operator along with requests for revisions or additional documentation. Once the permit writer approves the cost estimate, then the permit writer will send a memo to the OFA Director stating the approved estimate for closure, post-closure and/or corrective action.

b. The OFA staff must verify that financial assurance is provided, by ensuring that an appropriate mechanism covers the closure costs in the approved CE. When acceptable financial assurance documentation has been received and in compliance with the Regulation, the OFA Director must send the Waste Compliance and Permitting Manager a memo to confirm that the applicant complies with the financial assurance requirements. The OFA staff must send a compliance letter to the owner/operator with copies to the Waste Compliance and Permitting Manager.

4. Negotiated or Unilateral Consent Orders.

A consent order may contain a requirement for a specific amount of financial assurance for closure or may contain a requirement for developing a permit modification, or closure plan and provide a cost estimate with appropriate closure costs as a condition of the consent order.

To ensure that plans and cost estimates as well as reviews of these documents are referenced appropriately a copy of the draft consent order must be sent to the Waste Compliance and Permitting Manager and OFA Director for approval of financial assurance issues. A copy of the final consent order will also be sent to the OFA Director and the Waste Compliance and Permitting Manager.

5. Finalizing The Cost Estimate.

a. When cost estimates are complete they must be forwarded by the RO enforcement staff or the Waste Compliance and Permitting Manager, as applicable, to the OFA Manager. The OFA staff must verify that the approved CE in the consent order is demonstrated with an approved mechanism in the correct amount. When the financial assurance documentation has been received and in compliance with the Regulation, the OFA Director must send the Waste Compliance and Permitting Manager, RO Enforcement Specialist, and the Central Office Enforcement Staff, a memo and inform them that the applicant is in compliance with the financial assurance requirements. The OFA staff will send a compliance letter to the owner/operator with copies to the Waste Compliance and Permitting Manager, RO Enforcement Specialist, and the Central Office Enforcement Staff.

Appendix IVB

Financial Assurance Transmittal Memo

Approved Closure Cost Estimate Memo

DEQ Landfill Cost Estimate

OFA to OWP Memo

Section V PERMIT-BY-RULE AND VARIANCES

A. PERMIT-BY-RULE [9 VAC 20-80-485, 9 VAC 20-170-170].

Upon the receipt of the notification from the owner or operator of a transfer station, a materials recovery or energy recovery facility, an incinerator, a composting facility, or an off-loading receiving facility that such a facility plans to operate under a permit-by-rule, the following steps will be taken:

1. The notification package will be transmitted to the Waste Compliance and Permitting Manager for processing. The Waste Compliance and Permitting Manager shall assign the review and forward the request to a permit writer within 2 working days of receipt.
2. A permit writer will review the submission for the presence and administrative completeness of the required documentation. A checklist will be completed, depending on the type of facility (*see* [Appendix VA](#)).
3. Should the documentation be missing or be administratively incomplete, the permit writer shall, after consultation with their supervisor, write a letter to the facility operator listing the missing or incomplete documents and notifying him that the facility is not deemed to have a permit-by-rule (*see* [PBR NOD Letter](#), Appendix VA).
4. Should the documentation be complete, the permit writer shall draft a letter for the signature of the Deputy Regional Director acknowledging the receipt of the appropriate documentation (*see* Appendix VA), there are different formats for different types of facilities). A permit-by-rule is not issued. An applicant that submits the required information is deemed to have a permit-by-rule. If all appropriate documentation has been received, the letter can state that the application is "approved".
5. The director is required to respond to all permits-by-rule within 10 working days of receipt. For off-loading receiving facilities regulated under 9 VAC 20-170-10 et seq. the director is required to respond within 60 days of receipt. The Permit Writer and the Waste Compliance and Permitting Manager will be required to adhere to these timeframes.
6. The regional office may need to inspect a facility in order to determine that all aspects of the required facility design have been addressed.

Appendix VA

[PBR Transfer Station Checklist](#)

[PBR Materials Recovery Facility Checklist](#)

[PBR Incinerator/Energy Recovery Facility Checklist](#)

[PBR Composting Checklist](#)

[PBR Yard Waste Composting Checklist](#)

[PBR RMW Storage and Transfer Checklist](#)

[PBR RMW Incineration and Treatment Checklist](#)

[PBR RMW Onsite Checklist](#)

[PBR Barge Facility Checklist](#)

[PBR NOD Letter](#)

[PBR Approval Letter](#)

Approval Letter, [Standard Attachment I](#)

Approval Letter, [Standard Attachment II](#)

[RMW PBR Approval Letter](#)

Approval Letter, [RMW Attachment II](#)

Approval Letter, [YW Attachment I and II](#)

[Barge Approval Letter](#)

Barge, [Attachment I](#)

Barge, [Attachment II](#)

B. VARIANCES [9 VAC 20-80-730 through 790 (Part VII)].

1. With the few exceptions stated in 9 VAC 20-80-730 B, the DEQ Director will accept and process petitions to grant a variance from any requirement, procedural or substantive, contained in the Solid Waste Management Regulations. Part IX of the regulations lists certain regulatory areas that require submittal of specialized information (*e.g.*, 9 VAC 20-80-740 through 780) or specifies conditions (*e.g.*, 9 VAC 20-80-750 A, 760 A, 770 A, or 780 A). In the absence of any specific procedural requirements, the general administrative requirements of 9 VAC 20-80-790 apply. These procedures are very specific and should be referred to during the variance process.
2. Director's decision regarding variance. The director must make a decision to grant or deny the variance petition after it is deemed complete. If the variance petition is processed with a permit application or if it is processed independent of a permit application tentative approval of the variance must be advertised consistent with 9 VAC 20-80-790 B 3 a. Denial of variance petitions will be consistent with V.B. 4.
3. Variance petitions that are part of a permit application. If the petition is part of a draft permit and it can be granted, the documentation required by 9 VAC 20-80-790 shall be prepared and processed with the draft permit. If the petition cannot be granted and it has been submitted as part of a Part B permit application, the permit writer should advise the applicant as early as possible that the petition cannot be granted so that the applicant may revise the Part B application. If the variance petition cannot be granted the petitioner may submit the additional information, or may attempt to show that no reasonable basis exists for the request for additional information. If the director agrees that no reasonable basis exists for the request for additional information or if additional information is submitted addressing areas of concern, the application can be tentatively approved. If the director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action.
4. Variance Denial. The director can deny variance applications for a variety of reasons or if the application does not contain the information required in 9 VAC 20-80-790. In the case that petition will be tentatively denied, the director must offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the director to proceed with the evaluation and denial action (*see* [Variance Denial Letter](#), Appendix J). Please note that when a denial action is initiated it is subject to both the regulations and the Virginia Administrative Process Act (APA, §2.2-1400 of the Code of Virginia). If within 14 days of submitting the letter to the applicant no response is received, the Permit Writer will consult with the Waste Compliance and Permitting Manager on the course of action.

5. To begin the denial process, the Permit Writer will:
- a. Prepare a newspaper advertisement and radio broadcast (after Amendment 3 is effective the radio broadcast will no longer be required) provided in Appendix J announcing the decision to tentatively deny the variance application.
 - b. Send out information to the applicant and prepare for an APA adversarial proceeding in accordance with the procedures outlined in [III.C.3](#).
 - c. In accordance the APA, the presiding officer for the proceeding must render a recommendation to the director within 45 days of the adversarial proceeding. The director is required to notify the applicant of his decision within 90 days of the proceeding. The solid waste regulations require a 30-day public comment period and require the director to render a decision within 15 days of the end of the public comment period. To accommodate the timeframes for the director's decision in the APA and the regulation, the advertisement for tentative denial of the variance application and the director's final decision must be coordinated. The advertisement for public comment consistent with 9 VAC 20-80-B 3 c will be held immediately after the hearing officer renders his recommendation to the director or 45 days after the adversarial proceeding, whichever comes first. The public comment period will last for 30 days. The director will render a decision regarding the variance denial within 15 days of the conclusion of the public comment period. These timeframes must be followed in order to be consistent with the timeframes in the regulations and the APA. The appropriate letters, memo and advertisements can be found in [Appendix VB](#).

Appendix VB

[Tentative Variance Approval Memo](#)

[Tentative Approval Letter to the Applicant](#)

Public Notice

Letter to Newspaper

[Newspaper Advertisement](#)

[Letter to the Radio Station](#)

[Radio Announcement](#)

[Final Variance Approval](#)

[Final Approval Letter to the Applicant](#)

[Variance Denial Letter](#)

Section VI OTHER ISSUES

A. CENTRAL OFFICE AND REGIONAL COORDINATION

1. The regional office will serve as the repository of all records related to all permit actions. Therefore, any correspondence originating in the central office must be copied to the Regional Waste Compliance and Permitting Manager.
2. For any permitting action that deals with both groundwater and other issues, the regional permit writer will serve as the primary contact with the facility and will coordinate responses to the applicant. The regional permit writer will ensure that the Groundwater Permit Manager has been copied on all correspondence and the groundwater permit writer's comments have been included in all NODs submitted to the applicant.
3. Permit actions dealing only with groundwater issues will be processed in the central office with all correspondence copied to the Regional Waste Compliance and Permitting Manager.
4. The central office permitting contact will serve as a consultant to the Regional Waste Compliance and Permitting Manager for matters related to solid waste permitting. Guidance is available which addresses the content of permit related documents (Submission Instructions for Solid Waste management Facilities) and the processing of permit related documents (Solid Waste Permit Manual). The function of the central office permitting contact is to provide consistency between the regions and provide a source of guidance related to the solid waste permit program.

B. LIST OF TECHNICAL RESOURCES

CEDS Users manual.

Submission Instructions for Solid Waste management Facilities

Virginia Solid Waste Management Regulations

Virginia Waste Management Act

40 CFR 257,258

Federal Register

EPA Solid Waste Disposal Facility Criteria, Technical Manual, EPA530-R-93-17